

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DIPLOMATIC MAN, INC.

Plaintiff

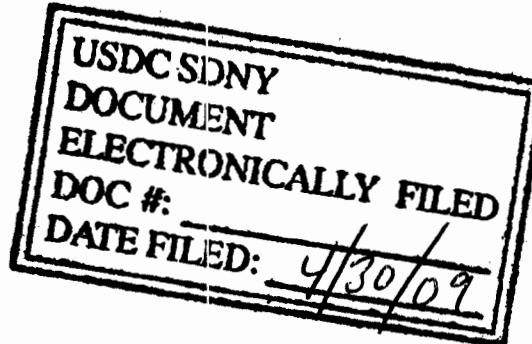
-v.-

NIKE, INC., et al.,

Defendant

08 Civ. 139 (GEL)

**ORDER**



GERARD E. LYNCH, District Judge:

On April 7, 2009, this Court granted defendant Nike, Inc.'s motion for an award of fees and costs under the Copyright Act, 17 U.S.C. § 505, awarding Nike \$311,072.50 in attorney's fees and \$13,783.19 in costs, for a total of \$324,855.69. Diplomatic Man, Inc. v. Nike, Inc., No. 08 Civ. 139, 2009 WL 935674, at \*7 (S.D.N.Y. Apr. 7, 2009). Nike also sought to recover costs and fees incurred in December 2008, which, at the time Nike submitted its motion at the end of that month, had yet to be computed, and by the time the Court granted the motion several months later, had yet to be presented for the Court's consideration. Id. at \*3. Accordingly, Nike was directed to submit any supporting documentation for additional costs and fees by April 13, 2009, and plaintiff was given until April 20, 2009, to object to any additional amount sought. Id. at \*7.

Nike timely submitted such supplemental documentation, including detailed time records of the work performed. (See Biel Supp. Decl & Ex. A; Webb Supp. Decl. & Ex. A.) In total, Nike seeks an additional \$89,740.65. To date, plaintiff has raised no objection.

The majority of the new amount sought – \$87,500.50 of the total \$89,740.65 – reflects attorney's fees. Of the attorney's fees, \$75,450.50 was incurred by lead counsel Shook, Hardy & Bacon LLP ("SHB") (Webb Supp. Decl. ¶ 4), and the remaining \$12,050.00 by local New York counsel, McGuireWoods LLP (Biel Supp. Decl. ¶ 4).<sup>1</sup> As with the amounts already awarded, a review of counsel's new bills demonstrates the general reasonableness of the fees sought, both in terms of the rates charged (which are no higher than before) and the time expended. (Biel Supp. Decl. Ex. A; Webb Supp. Decl. Ex. A.) As before, although the amounts may seem high given the ultimate disposition of the case, the bills reflect no obvious problems of excess or waste, and

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<sup>1</sup> Although in connection with its initial moving papers, Nike indicated that it contemporaneously submitted bills for "legal services rendered . . . through November 2008" (D. Mem. 22; see also Biel Decl. ¶ 8; Webb Decl. ¶ 4), SHB's bills, in fact, only went through October 2008. (Webb Decl. Ex. A). Accordingly, the additional \$75,450.50 fees sought for SHB's services encompass both November and December 2008.

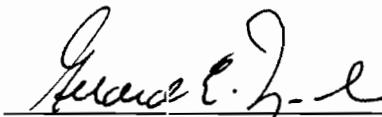
counsel was entirely within reason in continuing to vigorously pursue Nike's claims and defenses and all necessary discovery until the case was dismissed. Moreover, once the case was dismissed, Nike justifiably moved for an award of fees and costs, the costs of preparing such motion reflected in the additional fees now sought. Plaintiff has filed no objection to the motion. Accordingly, the \$87,500.50 fee request will be granted.

The remaining \$2240.15 represents additional expenses not included in the previous award. These amounts represent entirely ordinary and reasonable expenses attendant to the litigation and will be allowed in full.

Accordingly, it is hereby ordered that Nike is awarded an additional \$87,500.50 in fees and \$2240.15 in costs. Including the amounts previously awarded, Nike's total award against plaintiff equals \$414,596.34.

SO ORDERED.

Dated: New York, New York  
April 29, 2009

  
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GERARD E. LYNCH  
United States District Judge

Copy to:

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